

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

January 12, 2004  
6:00 p.m.

Council Conference Room  
Bellevue, Washington

PRESENT: Mayor Marshall, Deputy Mayor Noble, and Councilmembers Balducci, Chelminiak, Davidson, Degginger<sup>1</sup>, and Lee

ABSENT: None.

1. Executive Session

Deputy Mayor Noble opened the meeting at 6:03 p.m. and announced recess to Executive Session for approximately 90 minutes to discuss two items of potential litigation and one item of labor negotiations.

The Study Session resumed at 8:11 p.m. with Mayor Marshall presiding. She thanked everyone for their patience as the Executive Session took longer than anticipated.

2. Oral Communications

- (a) Shannon Boldizar, Bellevue Chamber of Commerce, commented on Agenda Item 3(e) regarding the City's contracting policies. She explained that Chamber members encourage the use of consistent guidelines by all City departments. She encouraged the City to consider new businesses when looking for a vendor, noting Bellevue added 2,469 new businesses last year. Ms. Boldizar expressed support for a system that gives local businesses an advantage in the RFP process. Chamber members are willing to participate in a work group to help the City define what is meant by "local" business. Chamber members have expressed concern that RFP requirements, particularly insurance requirements, can effectively eliminate local businesses from competing for contracts. Ms. Boldizar encouraged the City to fine tune its contracting policies to enhance consistency, fairness, and a spirit of competition.
- (b) Paul Grohe submitted comments in writing and discussed the traffic calming project for SE 14<sup>th</sup> Street and 168<sup>th</sup> Avenue SE. He explained that he contacted 20 residents who were solicited at their front door by proponents of the project. Every resident who said they favored the plan was given a ballot, which they completed and returned to the solicitor. However, every resident who said they opposed the plan was not offered a

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<sup>1</sup> Mr. Degginger arrived at 6:10 p.m.

ballot. Mr. Grohe has consulted with an attorney and was advised that the voting procedure for the project could be legitimately contested in a court of law. He encouraged Council and staff to resolve the matter by other means.

- (c) Mayellen Henry submitted comments in writing and expressed concern about voting irregularities with regard to the 168<sup>th</sup> Avenue/14<sup>th</sup> Street traffic calming project. She suggested that residents should have mailed their ballots to the City rather than returning them to the volunteer solicitors. Proponents were provided with information from a map showing daily votes and voting patterns, but opponents were not provided with this information. Ms. Henry said two residents have signed statements that they submitted ballots with “no” votes to solicitors and these ballots were never returned to City staff. The only “no” votes received were those mailed directly by the voters. Ms. Henry encouraged the Mayor and Council to resolve this matter.
- (d) Benn Henry submitted comments in writing and described voting problems with regard to the traffic calming project. He alleged proof of neighbors wishing to vote no on the project who were denied ballots by canvassers, the failure of ballots with “no” votes to reach City staff, neighbors being misled about the details of the project, and mailed ballots that were voided by hand-delivered, copied ballots. Mr. Henry noted Mayor Marshall’s request last week that the City Manager look into this matter. He said the City Manager has not contacted those who brought the problems to Council’s attention or any neighbors who were disenfranchised in the voting process.
- (e) Damian Golden explained that some supporters of the traffic calming project were members of the traffic committee as neighborhood volunteers. They went door to door in a campaign to win support for the proposed project. Mr. Golden said proponents of the project worked hard to honestly succeed in their campaign efforts.
- (f) Doris Crosier said she was not able to attend last week because she was ill. She asked Maria Golden to read her comments.
- (g) Maria Golden read Ms. Crosier’s comments [submitted to Council via email on January 9, 2004, and provided in Council’s desk packet]. Ms. Crosier was disturbed by statements made against proponents of the project at the January 5 Regular Session. She explained how she went door to door to discuss the project and that she kept track of which houses had voted but not how they had voted. Ms. Crosier stated that none of the opponents to the project asked her for a ballot or to turn in a ballot for them.
- (h) Steve Szablya spoke in reference to Agenda Item 3(c)(2) regarding the proposed referral of Puget Sound Energy reliability issues to the Environmental Services Commission. He emphasized the importance of electric utility reliability and urged Council to give it a high level of attention. Mr. Szablya asked Council to keep David Kerr involved in the process because he has a good understanding of the significance of this issue. Mr. Szablya said he contacted Puget Sound Energy before Christmas and received excellent customer service and follow-up from PSE Planning staff.

3. Study Session

(a) Council New Initiatives

No new initiatives were discussed.

(b) Council Business/Appointments to Regional Committees

Diane Carlson, Director of Intergovernmental Relations, requested Council direction regarding nominations for Councilmembers to serve on regional committees. The nominations will be submitted to the Suburban Cities Association, which will submit its recommendations for the elections on January 21.

Mr. Degginger clarified that Bellevue has its own seat on the Growth Management Planning Council (GMPC). Mr. Noble noted that Bellevue also has a seat on the Puget Sound Regional Council (PSRC) Policy Board.

Dr. Davidson has been serving as an alternate on the Regional Water Quality Committee (RWQC) and would like to continue to serve. Deputy Mayor Noble expressed an interest in serving on the Regional Policy Committee (RPC). Mayor Marshall noted Mr. Chelminiak's interest in the Regional Transit Committee (RTC). Mr. Lee is interested in the PSRC Executive Board.

Mayor Marshall noted Council consensus supporting the nominations as noted above and asked Ms. Carlson to draft a letter to the SCA.

(c) City Manager's Report

(1) Traffic Calming Project – 168<sup>th</sup> Avenue SE/SE 14<sup>th</sup> Street

City Manager Steve Sarkozy noted information beginning on page 3-10 of the Council packet regarding the controversy surrounding the traffic calming project planned for 168<sup>th</sup> Avenue SE and SE 14<sup>th</sup> Street.

Laurie Gromala, Transportation Assistant Director for Traffic Management, provided an update on the project. She recalled Council direction to staff in 1998 to implement enhanced citizen involvement in planning neighborhood traffic calming projects. The Transportation Department now creates traffic committees of area residents to assist City staff in developing projects. Majority support of 65 percent of affected residents is required to approve projects.

Ms. Gromala noted the current concerns by some residents about the voting process for the project. Transportation staff requested a legal opinion from the City Attorney's Office, which is provided on page 3-23 of the Council packet. The City Attorney's Office states that the map used to track ballots is a matter of public record and that the neighborhood ballot process is not subject to state election laws.

Ms. Gromala said staff believes the voting process was fair and impartial and recommends proceeding with final design and construction unless directed otherwise by Council. The project cost is estimated at \$100,000. Council approval of the construction contracts is required and staff anticipates requesting Council action in June.

Mr. Sarkozy summarized that the required approval rate of 65 percent has been met for the project. He recommended proceeding with the project.

Dr. Davidson encouraged staff to review and improve the voting process to avoid similar controversy in the future.

In light of the issues surrounding the voting process, Mr. Degginger encouraged staff to emphasize to residents that ballots should be returned by mail to City staff. He asked staff to add a full explanation of the voting rules and procedures in future project ballots.

While troubled by allegations about the voting process, Mr. Chelminiak noted the strong neighborhood support for the traffic calming project.

Mr. Lee feels the project has earned the majority support of residents. However, he would like the issues regarding the voting process to be addressed.

Ms. Balducci concurred with Council's concerns about the ballot process but feels traffic calming measures are needed at the project location.

- ➡ Mr. Degginger moved to direct staff to design a revised ballot form describing the voting policies and procedures for future votes on neighborhood projects. Mrs. Marshall seconded the motion.

Dr. Davidson supports door-to-door lobbying for neighborhood projects but recommended against the door-to-door collection of ballots.

Mayor Marshall acknowledged that traffic calming projects are always controversial. However, she feels the high approval rate is meaningful and the project is needed to enhance pedestrian safety in the area.

- ➡ The motion to direct staff to design a revised ballot form describing the voting policies and procedures for future votes on neighborhood projects carried by a vote of 7-0.

Mr. Sarkozy said staff will return to Council with the revised language within the next 45 days.

Mayor Marshall thanked residents for their involvement in this issue.

- (2) Proposed Referral of PSE Reliability Discussion to Environmental Services Commission

Nora Johnson, Transportation Assistant Director, recalled Dr. Davidson's suggestion at the December 15 Council meeting to refer the discussion of Puget Sound Energy's electric utility reliability to the Environmental Services Commission. Staff recommends continuing to work directly with Council on all franchise issues. Ms. Johnson explained that franchise issues are not currently within the defined areas of responsibility for the Environmental Service Commission or the Transportation Commission.

- ➡ Mr. Lee moved to retain the current strategy of staff bringing all franchise management issues to Council, and Mr. Noble seconded the motion.

Dr. Davidson noted that the memorandum of understanding (MOU) under the new franchise agreement is a new approach to addressing reliability. However, there are no specific policies on reliability. He feels it would be beneficial for the Environmental Services Commission or some citizen group to eventually review and discuss the impact of the City's reporting requirements for PSE.

Mayor Marshall thanked Mr. Szablya for his interest in reliability and assured him that Council will pay close attention to this issue. She expressed support for the motion.

Responding to Ms. Balducci, Mr. Sarkozy said staff will provide periodic reports to Council about PSE's outages and reliability performance measures. Ms. Johnson clarified that the City does not have regulatory authority over PSE. However, the City's agreement includes information requirements and staff can also request information from the Washington Utilities and Transportation Commission, which is the regulatory agency.

Responding to Mr. Chelminiak, Ms. Johnson said the City can request historical data on outages from PSE but it cannot require that they provide the information.

Mayor Marshall noted the need for proactive tree trimming and limb removal in relation to power outages.

- ➡ The motion to retain the current strategy of staff bringing all franchise management issues to Council carried by a vote of 7-0.
- (d) Resolution No. 6949 establishing the extent of the Work Program for the 2004 Comprehensive Plan Update under the seven-year update process required by RCW 36.70A.130; establishing a public participation program as required by RCW 36.70A.035 and .140; determining that the Comprehensive Plan and Development Regulations are in compliance with the Growth Management Act except as contained in the Work Program; and finding that the review of relevant plans and regulations and the analysis of the need for revisions has been completed as required by RCW 36.70A.130. *(Discussed at January 5, 2004, Study and Regular Sessions.)*

Kathleen Burgess, Comprehensive Planning Manager, recalled Council's discussion on January 5 about the 2004 Comprehensive Plan and Land Use Code Update Work Program. She referred to page 3-28 of the Council packet for a summary of Council direction from that meeting.

- ➡ Deputy Mayor Noble moved to approve Resolution No. 6949, and Dr. Davidson seconded the motion.
- ➡ The motion to approve Resolution No. 6949 carried by a vote of 7-0.

(e) Overview of City Contracting Policies

Jocelyn Mathiasen, Assistant to the City Manager, explained that the City Manager initiated a review of the City's contracting policies in 2002. A set of contracting principles were endorsed by Council in October 2002 as follows:

- The City shall adhere to an established Code of Ethics and shall act with integrity throughout the contracting process.
- The process will be open, accessible, transparent, and competitive.
- Firms should be fully capable and qualified to fulfill the terms of their contract.
- The City will test the market to ensure costs are reasonable and competitive.
- Contracts should be for a specified term.
- Contracts should be drafted with clear and rigorous standards regarding timing, cost, and quality of services and will provide the City with the ability to enforce these terms.
- The contracting process and documents will be designed and managed to avoid undue exposure to liability and other risks.
- In some circumstances, exceptions to the contracting policies may make good business sense and be in the best interest of the City.
- Mechanisms for contract management and oversight shall be maintained and shall assure adherence to these guiding principles.

Ms. Mathiasen reviewed the situations in which contracting is used by the City:

- Work requires expertise or knowledge not available from City staff.
- Additional resources to support peak workloads are needed.
- Work is one-time or sporadic.
- Law mandates the work be contracted.
- An outside or objective perspective is needed.
- When contracting is more cost-effective than staff work.
- Insufficient staff resources to complete the work.

Of the City's \$250 million budget in 2002, \$57.7 million was spent on contract work. Of this, nearly \$35 million was spent on public works contracts.

Ms. Mathiasen reviewed four key policy questions regarding contracting for services: 1) How extensive should the selection process be? 2) Should the City avoid or foster longstanding

relationships with individual providers? 3) Should contracting be used as an economic development tool for local business? and 4) How should insurance level requirements for contractors be established?

Ms. Mathiasen discussed the trade-offs associated with different contracting approaches. A less extensive selection process has the advantage of quick selection and the ability to select based on intangible factors but the disadvantage of the appearance of favoritism and not always getting the best price or quality of service. A more extensive selection process might find a better provider at a lower cost. However, it can be time consuming for the City and vendors, and can delay projects.

Ms. Mathiasen reviewed the following steps considered best contracting practices:

1. Identify the need, whether to contract or not.
2. Prepare the scope of work.
3. Estimate costs.
4. Develop evaluation criteria, which will vary according to the service or product.
5. Solicit proposals.
6. Evaluate proposals against criteria.
7. Select winning proposal.

Staff recommends always following the best practice steps, although the level of detail and elaboration depends on the size of the contract. The City should always ensure the contractor is capable and the price is reasonable. In some cases, state law provides the guidelines on the selection process.

Ms. Mathiasen described the trade-offs associated with long-term contracting relationships. The benefit of a longstanding provider is the proven track record, but the disadvantage is the appearance of favoritism and the contractor may be less likely to bring new ideas forward. The potential advantage of new providers is a fresh perspective and providing opportunities for new businesses. However, developing new relationships can be time consuming for staff, delay projects, and require considerable time and effort on the part of the new vendor. Staff recommends that existing providers should always be required to compete with potential new contractors for business. Competition typically is suggested every four years. Additional staff review can help determine whether there are cases in which new providers should be encouraged over existing vendors.

Moving to the role of contracting as an economic development tool, Ms. Mathiasen reviewed the options of local preference, “tie break” in which a local firm is selected when everything else is equal, and education/outreach to local businesses to encourage competition for contracts. Staff recommends against having an explicit preference for local firms over those that are better qualified or less expensive. However, local firms could be given preference in cases of a tie. Staff is planning a significant outreach effort to make Bellevue firms more aware of contracting opportunities and how to compete for contracts.

Ms. Mathiasen discussed the pros and cons of contracting insurance levels. Lower insurance level requirements result in lower costs, more firms able to compete, and quicker contracting approval. However, it can expose the City to liability. Higher insurance levels bring greater protection for the City and may indicate a more sophisticated provider, but it generally results in fewer competing firms and adds cost to contracts. The City's current standard requirements are \$1 million in general liability coverage, \$1 million in auto liability coverage, and \$1 million of professional liability coverage. These may be reduced if the risk is negligible and the cost is onerous for the provider to obtain. Insurance requirements can be increased and additional types of insurance can be required in unusual or high-risk cases.

Staff's recommendation for insurance requirements is to apply the standard insurance requirements for routine contracts (e.g., landscaping). In higher risk contracts, such as work near a pipeline or large construction projects, the City's Risk Manager should assess the issues and recommend the appropriate types and level of insurance. For unique and larger projects (e.g., major franchise), staff recommends Council approve insurance requirements in advance.

Ms. Mathiasen summarized staff's recommendations in the four key areas: level of competition, economic development, longstanding relationships, and insurance requirements.

Mr. Degginger expressed an interest in learning more details about how the City's RFP (request for proposal) process currently works and how it compares to other cities' practices. He would like to know how the City's standard insurance requirements were developed and whether they are adequate.

Ms. Mathiasen indicated that tonight's presentation was intended to be an introduction and overview. However, staff would like to know the areas in which Council would like more information.

Mr. Degginger would like more specific details on how different departments select contractors. Dr. Davidson concurred with Mr. Degginger's comments and suggested a review and discussion of the issues highlighted by the Chamber of Commerce.

Mr. Lee feels contracting is a good opportunity for economic development. He would like more information about the overall process including the number of firms involved and whether preference is given to small businesses.

➡ Deputy Mayor Noble moved to extend the meeting to 10:30 p.m., and Mr. Lee seconded the motion.

➡ The motion to extend the meeting to 10:30 p.m. carried by a vote of 7-0.

Noting the Chamber's comments, Mayor Marshall suggested staff identify the differences between departments in contracting practices and explain why they need to be different. She inquired about the notification process. Mrs. Marshall recalled that she questioned the hiring of a Canadian landscape architect firm for the new City building when there is likely similar



expertise in this community. She is interested in exploring the feasibility of incorporating local preference into contractor selection.

Deputy Mayor Noble is hesitant to adopt local preference but would be open to the local tie breaker approach. Mayor Marshall clarified she is willing to define local as something beyond the city limits but certainly within this country.

Councilmember Balducci thanked staff for providing a good comprehensive overview before getting into specific details about contracting. In terms of longstanding relationships, she is not in favor of turnover just for the sake of turnover. However, she agrees with periodically looking for a better service and/or a better price. Ms. Balducci said the idea of using contracting as an economic development tool was intriguing. She stated that she would be interested in a staff comparison of past contracts and the cost differential using the local tie breaker approach ~~supports the goal of economic development and is open to exploring the local tie breaker approach.~~<sup>2</sup>

- (f) Request from Water District 1 Board of Commissioners to contract with the City of Bellevue to operate and maintain the District's water system leading to the full assumption of the District by the City. *(Council action is scheduled for January 20, 2004.)*

Mr. Sarkozy opened discussion about a proposal to contract with Water District 1 to operate and maintain its water system and eventually leading to the full assumption of the District by the City.

Utilities Director Lloyd Warren introduced Mayor Berry (Yarrow Point), Lynn Stokesbury (Assistant City Manager, Kirkland), Bill Evans (Assistant City Attorney, Kirkland), and Leonard Newstrum (Water District 1 Commissioner). Mr. Warren described the proposal to operate and maintain Water District 1's water system for up to 20 years in anticipation of full assumption of the District. The District currently has 211 customers. Bellevue now provides water to half of the town of Yarrow Point, and the proposed contract would provide water to the other half of the residents. Bellevue also provides sewer services to the entire community. Water District 1's water is supplied from wells on District-owned property within Kirkland's city limits.

Mr. Warren referenced the contract provided in the Council packet beginning on page 3-57. The agreement indicates the District will make improvements to its water system so the pipes will be the same average age as those in Bellevue. As part of this agreement, the District will decommission its well and transmission system. Under a separate action, Kirkland will purchase the District's well property and accept liability for all facilities. The District will pay for connecting to Bellevue's system and continue to accept the risk for pipe failures on pipes not upgraded as part of the agreement. Mr. Warren said the agreement meets all of the principles previously identified and endorsed by Council. Council action on the agreement is scheduled for January 20.

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<sup>2</sup> Amended and approved by Council on January 20, 2004.

Mr. Newstrum expressed support for the proposed contract. He said a poll of residents indicated 2 to 1 support in favor of connecting to Bellevue's water system.

Responding to Ms. Balducci, Mr. Warren explained the City's interest in consolidating services as Water District 1 is the only area in the Points Communities that does not receive water services from Bellevue. The Fire Chief feels it would be beneficial to provide water services since Bellevue already provides fire protection services.

Responding to Councilmember Lee, Mr. Warren said assumption of the District would not be allowed under current state legislation. Mr. Newstrum said there is precedent for assumption, however, with Hunts Point, and Senator Esser will be introducing legislation this session to provide assumption authority. Mr. Warren said additional legislation will be introduced by the water district association to address broader issues surrounding assumptions.

Mayor Marshall congratulated Kirkland representatives on the passage of their park bond.

Mayor Berry thanked Mr. Warren for his extensive assistance in this matter.

At 10:25 p.m., Mayor Marshall declared the meeting adjourned.

Myrna L. Basich  
City Clerk

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